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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)	
)	No. 40616
Plaintiff-Respondent,)	
)	Ada Co. Case No.
vs.)	CR-2012-4834
)	
CHARLES ALLEN VAUGHN, JR.,)	
)	
Defendant-Appellant.)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA

HONORABLE DEBORAH A. BAIL
District Judge

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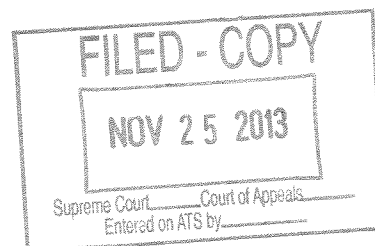


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STATEMENT OF THE CASE

Nature Of The Case

Charles Allen Vaughn, Jr., appeals from the judgment of conviction entered upon his conditional guilty plea to felony violation of a no contact order.

Statement Of Facts And Course Of Proceedings

On June 25, 2009, the state charged Vaughn with the following offenses in Ada County Case No. CR-FE-2009-11562: attempted strangulation, domestic violence, resisting or obstructing officers, and injury to child. (Appendix A, p.1.)

On August 5, 2009, the state again charged Vaughn with a number of offenses in a separate case - Ada County Case No. CR-FE-2009-0014391 - including attempted strangulation, domestic battery in the presence of a child, possession of a controlled substance, and resisting or obstructing officers. (Appendix B.) On September 3, 2009, this case was consolidated with the previous case – Case No CR-FE-2009-11562. (Appendix A, p.2; Appendix B, p.2.)

On October 28, 2009, apparently pursuant to a plea agreement, Vaughn pled guilty to one count of domestic battery in the presence of a child in Case No. CR-FE-2009-14391. (Appendix B, p.3; see R., p.86) The remaining charges in the consolidated case were dismissed and the court imposed a unified 20-year sentence with five years fixed. (Appendix A, pp.1-2; Appendix B, pp.1,3.) The Register of Actions for Case No. CR-FE-2009-14391 also indicates a no contact order was entered on December 30, 2009, in “DR # 09-3607,” which is to expire

on December 30, 2009.¹ (Appendix B, p.3; R., p.83 (no contact order).) Although the no contact order filed on December 30, 2009, reflects “DR # 2009-0003607,” it erroneously lists the case number as CR-FE-09-0021560 instead of Case No. CR-FE-2009-14391. Case No. CR-FE-09-0021560 was filed on November 18, 2009, and charged Vaughn with two counts of intimidating a witness and two counts of misdemeanor violation of a no contact order.² (Appendix C.) The state, however, dismissed these charges at the preliminary hearing on December 3, 2009, almost one month prior to entry of the December 30, 2009 no contact order. (Appendix C, p.1.) The no contact order was later amended on March 19, 2012, to reflect the correct case number – CR-FE-2009-14391. (R., p.84.) The amended order includes the same expiration date as the original and the judge noted the order was “effective 12-30-2009 nunc pro tunc.” (R., p.84.) Vaughn signed the order on March 21, 2012. (R., p.84.)

In June 2012, the state charged Vaughn with nine counts of felony violation of a no contact order. (R., pp. 44-48, 54-58.) Specifically, the state alleged that, on nine different occasions, Vaughn violated the “no contact order

¹ The same Register of Actions indicates Vaughn unsuccessfully sought to modify the no contact order on July 2, 2010, September 14, 2011, November 7, 2011, and January 17, 2013. (Appendix B, pp.3-4.) Vaughn appealed the denial of his September 14 and November 7 motions, and the Idaho Court of Appeals affirmed the district court’s decision denying Vaughn’s requests. See State v. Vaughn, 2013 Unpublished Opinion No. 661 at p.3 (Idaho App. Sept. 5, 2013).

² The “violation date” for these offenses actually predated the charges in Case No. CR-FE-2009-0014391. According to the Register of Actions for the respective case numbers, the violation date for Case No. CR-FE-2009-0014391 was August 4, 2009, whereas the violation date for Case No. CR-FE-2009-21560 was July 26, 2009. (Appendices B and C.) Contemporaneous with this brief, the state has filed a motion asking the Court to take judicial notice of the Registers of Action in all three of Vaughn’s 2009 criminal cases, copies of which are attached hereto as Appendices A, B, and C.

issued . . . in Ada County case CR-FE-2009-0014391 and/or CR-FE-2009-0021560 and with Ada County DR 09-003607.” (Id.) The alleged violations occurred on the following dates in 2010: January 23, February 3, March 12, March 22, April 1, April 14, April 26, May 12, and September 9. (Id.)

Vaughn filed a motion to dismiss, contending the no contact order he allegedly violated was “invalid” “on its face” because it contained an incorrect case number during the period he violated the order. (R., p.78.) The court denied Vaughn’s motion, noting the error was only “clerical,” after which Vaughn entered a conditional guilty plea to one count of felony violation of a no contact order, reserving the right to appeal the denial of his motion to dismiss. (See generally Tr., pp.15-51; R., pp.91-97.) The court imposed a unified five-year sentence with “one-half (1/2) year” fixed to run consecutive to the sentence imposed in a separate case. (R., pp.104-105.) Vaughn filed a timely notice of appeal. (R., pp.108-111.)

ISSUE

Vaughn states the issue on appeal as:

Did the District Court err in denying Mr. Vaughn's motion to dismiss?

(Opening Brief of Appellant ("Appellant's Brief"), p.2.)

The state rephrases the issue on appeal as:

Has Vaughn failed to establish the amendment to the no contact order deprived the court of jurisdiction over the felony no contact order violation to which Vaughn pled guilty?

ARGUMENT

Vaughn Has Failed To Establish Error In The Denial Of His Motion To Dismiss

A. Introduction

Vaughn claims the district court erred in denying his motion to dismiss, arguing, as he did below, that the court lacked jurisdiction over the felony no contact order violation because the original order included an incorrect case number. (Appellant's Brief, pp.2-5.) The district court correctly concluded the error was clerical in nature and did not deprive the court of jurisdiction. Review of the record and the applicable law supports the district court's conclusion.

B. Standard Of Review

"Jurisdiction is likewise a question of law and is reviewed de novo." State v. Lute, 150 Idaho 837, 839, 252 P.3d 1255, 1257 (2011) (citing State v. Barros, 131 Idaho 379, 381, 957 P.2d 1095, 1097 (1998)).

C. The Clerical Error In The Original No Contact Order Did Not Deprive The District Court Of Jurisdiction Over The Charge That Vaughn Violated The No Contact Order

Vaughn contends the district court's analysis in denying his motion to dismiss "is contrary to the legal definition of clerical error and misses the salient point that the District Court had no jurisdiction to enter a no contact order in a case which it had already dismissed." (Appellant's Brief, p.3.) Vaughn further argues the "District Court had no power to enforce a no contact order in the live case before it served the order." (Appellant's Brief, p.3.) Vaughn relies on I.C.R. 46.2(a) and State v. Jakoski, 139 Idaho 352, 79 P.3d 711 (2003), in support of

his argument. (Appellant's Brief, p.3.) Neither I.C.R. 46.2 nor case law support Vaughn's jurisdictional argument.

"Subject matter jurisdiction is the power to determine cases over a general type or class of dispute." Lute, 150 Idaho at 840, 252 P.3d at 1258 (quoting Bach v. Miller, 144 Idaho 142, 145, 158 P.3d 305, 308 (2007)). "Because the charging document is the instrument that confers subject matter jurisdiction on a court, whether a court has subject matter jurisdiction depends upon whether the charging document is legally sufficient." State v. Frauenberger, 154 Idaho 294, ___, 297 P.3d 257, 261 (Ct. App. 2013) (citing State v. Severson, 147 Idaho 694, 708, 215 P.3d 414, 428 (2009)). "An indictment or an information confers jurisdiction if it alleges that the defendant committed a criminal offense with the state of Idaho." Id.

The Information charging Vaughn with felony violation of a no contact order alleged "an offense was committed within the State of Idaho," *i.e.*, nine violations of I.C. § 18-920, committed "in the County of Ada, State of Idaho." (R., pp.44, 54-55.) This was sufficient to confer subject matter jurisdiction on the district court. Vaughn's reliance on I.C.R. 46.2(a) for a contrary conclusion is misplaced because "the charging document is the instrument that confers subject matter jurisdiction on a court," Frauenberger, supra, not the Idaho Criminal Rules. Although the rules may extend the court's jurisdiction to consider certain matters; they do not confer jurisdiction in the first instance. Jakoski, the case on which Vaughn relies, illustrates this point.

At issue in Jakoski was whether the district court had jurisdiction to consider the defendant's motion to withdraw his I.C.R. 33(c) motion to withdraw his guilty plea that was not filed until after his judgment became final. 139 Idaho at 354-355, 79 P.3d at 713-714. The Court stated: "Absent a statute or **rule extending its jurisdiction**, the trial court's jurisdiction to amend or set aside a judgment expires once the judgment becomes final." Id. at 355, 79 P.3d at 714 (emphasis added); see also State v. Wegner, 148 Idaho 270, 220 P.3d 1089 (2009); cf. Idaho Dept. of Health and Welfare v. Doe, 150 Idaho 103, 110-111, 244 P.3d 247, 254-255 (Ct. App. 2010) (citing cases) ("deviations" from time requirements of statute "would not result in the court's loss of jurisdiction over the case absent express legislative direction to the contrary").

Moreover, the state is unaware of any authority, and Vaughn has cited none, that supports the proposition that a clerical error in a no contact order deprives the court of jurisdiction. Instead, Vaughn relies on the language of Rule 46.2, which does not support his position, and his assertion that the error is not clerical, which is incorrect.

Rule 46.2(a) provides that "[n]o contact orders issued pursuant to Idaho Code § 18-920 shall be in writing and served on or signed by the defendant" and shall contain, among other information, "The case number, defendant's name and victim's name." I.C.R. 46.2(a). Although the no contact order initially contained an incorrect case number, it complied with the requirements of the rule. In any event, nowhere in Rule 46.2 does it state that a no contact order becomes invalid if any of the required information is missing or incorrect.

The rule also states: “Whenever a no contact order is issued, modified or terminated by the court, or the criminal case is dismissed, the clerk shall give written notification to the records department of the sheriff’s office in the county in which the order was originally issued, immediately.” I.C.R. 46.2(a). Vaughn makes much of this language in claiming a lack of jurisdiction but again fails to cite any authority to support his position that the dismissal of a criminal case in which no order was actually issued somehow invalidates the no contact order in which the case was actually issued, much less deprived the court of jurisdiction when the order was violated. Indeed, in order to prove a violation of a no contact order, the state is only required to prove, in relevant part, “[a] no contact order has been issued, either by a court or by an Idaho criminal rule” and that “[t]he person charged or convicted has had contact with the stated person in violation of an order.” I.C. § 18-920(2)(b), (c). The state does not have to prove that the order satisfied all aspects of I.C.R. 46.2 or that the order contains no clerical errors. While any defects may be the subject of a due process claim by a defendant (which Vaughn could not legitimately argue in relation to the incorrect case number given his repeated efforts to modify the no contact order he knew existed), they do not constitute jurisdictional flaws.

As found by the district court, the error in the original no contact order was clerical, not jurisdictional. Vaughn argues otherwise, asserting the district court’s characterization of the flaw in the no contact order as a clerical error was erroneous. According to Vaughn, the error was “[a]t best . . . an error of misidentification, which cannot be corrected as a clerical error” and “[a]t worse ...

an error of judgment in issuing an order in the absence of jurisdiction, which likewise cannot be corrected as a clerical error.” (Appellant’s Brief, p.4.) Vaughn derives *his* alternative characterizations of the error from United States v. Robinson, 368 F.3d 653, 656 (6th Cir. 2004) (citations and quotations omitted), in which the court stated a clerical error “must not be one of judgment or even of misidentification, but merely of recitation, of the sort that a clerk or amanuensis might commit, mechanical in nature.” (Appellant’s Brief, p.4 (quoting Robinson, supra).) Relabeling the error as “one of judgment” or “misidentification” does not make it so. Indeed, Vaughn provides no explanation as to why he believes writing the wrong case number is not an error “of recitation, of the sort that a clerk . . . might commit,” and he presented no evidence that the error was anything but clerical in nature. And, his reliance on Robinson is largely misplaced because the error at issue there was the court’s “unexpressed sentencing expectations,” which is not a clerical error that can be corrected pursuant to the federal equivalent of I.C.R. 36. Robinson, 368 F.3d at 656. This is consistent with Idaho law, and is, in any event, irrelevant because the error Vaughn complains of in this case does not involve an attempt to correct the court’s unexpressed intent in sentencing or any error involving the exercise of discretion. State v. Allen, 144 Idaho 875, 878, 172 P.3d 1150, 1153 (Ct. App. 2007).

Finally, Vaughn claims the amended no contact order, with the correct case number, did not become effective until he signed it on March 21, 2012, after the alleged violations occurred. (Appellant’s Brief, pp.3-4.) Vaughn, however,


fails to acknowledge the amended order stated it was “effective nunc pro tunc” to “12-30-2009” and Vaughn signed it with that knowledge. (R., p.84.) There is no evidence that Vaughn challenged the efficacy of that language at the time he signed the no contact order nor does he appear to do so on appeal. Even if his assertions encompass any challenge to that language, the time to do so has expired. I.A.R. 14(a).

Because Vaughn has failed to show the error in the no contact order deprived the court of jurisdiction over the charge that he violated the order, he has failed to establish the district court erred in denying his motion to dismiss.

CONCLUSION

The state respectfully requests that this Court affirm the judgment entered upon Vaughn’s conditional guilty plea to felony violation of a no contact order.

DATED this 25th day of November, 2013.



JESSICA M. LORELLO
Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of November, 2013, I caused two true and correct copies of the foregoing BRIEF OF RESPONDENT to be placed in the United States mail, postage prepaid, addressed to:

DEBORAH WHIPPLE
Nevin, Benjamin, McKay & Bartlett
303 W. Bannock
Boise, Idaho 83701



JESSICA M. LORELLO
Deputy Attorney General

JML/pm

APPENDIX A

Case Number Result Page

Ada

2 Cases Found.

State of Idaho vs. Charles Allen Vaughn Jr						
No hearings scheduled						
Case: CR-FE-2009-0011562	District	Judge: Cheri C. Copsey	Amount due: \$0.00	Closed		
Charges: Violation	Date	Charge	Citation	Degree	Disposition	
06/25/2009	I18-923	Strangulation-Attempted Officer: Northway, Justin, ME		Felony	Finding: Dismissed By Court Disposition date: 08/04/2009	
					Fines/fees: \$0.00	
06/25/2009	Original: I18-1501(1) {F} Injury to Child Amended: I18-918(4) {F} Assault-domestic Violence Officer: Northway, Justin, ME			Felony Felony	Finding: Dismissed By Court Disposition date: 08/04/2009	
					Fines/fees: \$0.00	
06/25/2009	Original: I18-918(4) {F} Assault-domestic Violence Amended: I37-2732 {F} Controlled Substance Violation Officer: Northway, Justin, ME		157754	Felony Felony	Finding: Dismissed By Court Disposition date: 08/04/2009	
					Fines/fees: \$0.00	
06/25/2009	Original: I18-705 Officers-resisting Or Obstructing Officers Amended: I37-2732 {F} Controlled Substance Violation Officer: Northway, Justin, ME		157754	Misdemeanor Felony	Finding: Dismissed By Court Disposition date: 08/04/2009	
					Fines/fees: \$0.00	
06/25/2009	I18-1501(1) {M} Children-Injury To Child Officer: Northway, Justin, ME			Misdemeanor	Finding: Dismissed By Court Disposition date: 09/08/2009	
					Fines/fees: \$0.00	
06/25/2009	I18-705 Resisting or Obstructing Officers Officer: Northway, Justin, ME			Misdemeanor	Finding: Dismissed By Court Disposition date: 09/08/2009	
					Fines/fees: \$0.00	

Register
of Date
actions:

06/25/2009 New Case Filed - Felony

06/25/2009 Prosecutor assigned Ada County Prosecutor

06/25/2009 Hearing Scheduled (Video Arraignment 06/25/2009 01:30 PM)

06/25/2009 Hearing result for Video Arraignment held on 06/25/2009 01:30 PM:
Arraignment / First Appearance

06/25/2009 Order Appointing Public Defender Ada County Public Defender

06/25/2009 No Contact Order: No contact order OR Civil Protection Order Issued

06/25/2009 Judge Change: Adminisitrative

06/25/2009 Hearing Scheduled (Preliminary 07/09/2009 08:30 AM)

06/25/2009 BOND SET: at 750000.00 - (I18-923 Strangulation-Attempted)

06/25/2009 Order Appointing Public Defender

06/26/2009 Prosecutor assigned JULIANNE MEEHAN

06/30/2009 Prosecutor assigned Whitney Welsh

06/30/2009 Motion For Bond Reduction

06/30/2009 Notice Of Hearing

06/30/2009 Defendant's Request for Discovery

07/01/2009 Stipulation to Release Specified Property

07/09/2009 Hearing result for Preliminary held on 07/09/2009 08:30 AM: Continued

07/09/2009 Hearing Scheduled (Preliminary 07/29/2009 08:30 AM)

07/29/2009 Hearing result for Preliminary held on 07/29/2009 08:30 AM: Continued

07/29/2009 Hearing Scheduled (Preliminary 08/04/2009 08:30 AM)

07/31/2009 Motion to modify NCO

08/04/2009 Hearing result for Preliminary held on 08/04/2009 08:30 AM: Remanded

08/04/2009 Judge Change: Adminisitrative

08/04/2009 Hearing Scheduled (Pretrial Conference 09/14/2009 08:45 AM)

08/04/2009 Hearing Scheduled (Jury Trial 10/08/2009 08:30 AM)

08/04/2009 Charge Reduced Or Amended (I18-918(4) {F} Assault-domestic Violence)

08/04/2009 Charge Reduced Or Amended (I37-2732 {F} Controlled Substance Violation)

08/04/2009 Charge Reduced Or Amended (I37-2732 {F} Controlled Substance Violation)

08/04/2009 Dismissed by the Court (I18-923 Strangulation-Attempted)

08/04/2009 Dismissed by the Court (I18-918(4) {F} Assault-domestic Violence)

08/04/2009 Dismissed by the Court (I37-2732 {F} Controlled Substance Violation)

08/04/2009 Dismissed by the Court (I37-2732 {F} Controlled Substance Violation)

08/04/2009 Amended Complaint Filed

08/04/2009 BOND SET: at 12500.00 - (I18-923 Strangulation-Attempted)

09/03/2009 Order to Consolidate

09/03/2009 Hearing result for Jury Trial held on 10/08/2009 08:30 AM: Hearing Vacated

09/03/2009 Hearing result for Pretrial Conference held on 09/14/2009 08:45 AM:
Hearing Vacated

09/03/2009 Hearing Scheduled (Entry of Plea 09/16/2009 01:30 PM)

09/04/2009 Motion To Dismiss

09/08/2009 Order Of Dismissal

09/08/2009 Dismissed by the Court (I18-1501(1) {M} Children-Injury To Child)

09/08/2009 Dismissed by the Court (I18-705 Resisting or Obstructing Officers)

09/08/2009 Hearing result for Entry of Plea held on 09/16/2009 01:30 PM: Hearing
Vacated

09/08/2009 STATUS CHANGED: closed

APPENDIX B

Case Number Result Page

Ada

2 Cases Found.

State of Idaho vs. Charles Allen Vaughn Jr
No hearings scheduled

Case: CR-FE-2009-0014391	District	Judge: Cheri C. Copsey	Amount due: \$5,585.50	Closed pending clerk action
Charges: Violation Date Charge Citation Degree Disposition				
	08/04/2009	I18-923 Strangulation (Attempted)	Felony	Finding: Dismissed By Court
		Officer: FRASIER, BRANDON, K		Disposition date: 12/30/2009
				Fines/fees: \$0.00
	08/04/2009	Original: I18-1501(1) {F} Children-Injury To Child	Felony	Finding: Guilty
		Amended: I18-918(4) {F} Enhancement-Domestic Battery or Assault when a Child is Present	Felony	Disposition date: 12/30/2009
		Officer: FRASIER, BRANDON, K		Fines/fees: \$5,585.50
				Det Penitentiary: 5 years
				Indet Penitentiary: 15 years
	08/04/2009	Original: I18-918(4) {F} Enhancement-Domestic Battery or Assault when a Child is Present	Felony	Finding: Dismissed By Court
		Amended: I37-2732(C) (1) Controlled Substance-Possession of	Felony	Disposition date: 12/30/2009
		Officer: FRASIER, BRANDON, K		Fines/fees: \$0.00
	08/04/2009	I37-2732(C)(1) Controlled Substance-Possession of	Felony	Finding: Dismissed By Court
		Officer: FRASIER, BRANDON, K		Disposition date: 12/30/2009
				Fines/fees: \$0.00
	08/04/2009	Original: I37-2732(C) (1) Controlled Substance-Possession of	Felony	Finding: Dismissed By Court
		Amended: I18-1501(2) Children-Injury To Child	Misdemeanor	Disposition date: 12/30/2009
		Officer: FRASIER, BRANDON, K		Fines/fees: \$0.00
	08/04/2009	I18-705 Resisting or Obstructing Officers	Misdemeanor	Finding: Dismissed By Court
		Officer: FRASIER, BRANDON, K		Disposition date: 12/30/2009
				Fines/fees: \$0.00

Register Date
of

actions:

08/05/2009 New Case Filed - Felony
08/05/2009 Prosecutor assigned Whitney Welsh
08/05/2009 Hearing Scheduled (Video Arraignment 08/05/2009 01:30 PM)
08/05/2009 Defendant: Vaughn, Charles Allen Order Appointing Public Defender Public defender Ada County Public Defender
08/05/2009 Judge Change: Administrative
08/05/2009 Hearing Scheduled (Preliminary 08/19/2009 08:30 AM)
08/05/2009 BOND SET: at 750000.00 - (I18-923 Strangulation (Attempted))
08/05/2009 Hearing result for Video Arraignment held on 08/05/2009 01:30 PM: Arraignment / First Appearance
08/05/2009 Hearing Scheduled (Preliminary 08/13/2009 08:30 AM)
08/05/2009 Order Appointing Public Defender
08/06/2009 Motion For Bond Reduction
08/06/2009 Notice Of Hearing
08/06/2009 Defendant's Request for Discovery
08/13/2009 Charge Reduced Or Amended (I18-918(2)(A) Battery-Domestic Violence Inflicting Traumatic Injury)
08/13/2009 Hearing result for Preliminary held on 08/19/2009 08:30 AM: Bound Over (after Prelim)
08/13/2009 Hearing Scheduled (Arraignment 08/20/2009 09:00 AM)
08/13/2009 Charge Reduced Or Amended (I18-918(4) {F} Enhancement-Domestic Battery or Assault when a Child is Present)
08/13/2009 Charge Reduced Or Amended (I37-2732(C)(1) Controlled Substance-Possession of)
08/13/2009 Amended Complaint Filed 2nd
08/13/2009 Commitment
08/17/2009 Information
Hearing result for Arraignment held on 08/20/2009 09:00 AM: District Court
08/20/2009 Arraignment- Court Reporter: Penny Tardiff Number of Pages: Less than 100 Pages
08/20/2009 Hearing Scheduled (Entry of Plea 09/03/2009 08:30 AM)
08/20/2009 Motion to Consolidate
08/25/2009 Motion to DQ
08/26/2009 Hearing result for Entry of Plea held on 09/03/2009 08:30 AM: Hearing Vacated
08/26/2009 Disqualification of Judge - Without Cause
08/26/2009 Change Assigned Judge: Disqualification W/O Cause
08/26/2009 Notice Of Reassignment - Judge Copsey
08/27/2009 Hearing Scheduled (Entry of Plea 09/02/2009 01:30 PM)
Hearing result for Entry of Plea held on 09/02/2009 03:30 PM: District Court
09/02/2009 Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this hearing estimated: Under 100 Pages
09/02/2009 Hearing Scheduled (Entry of Plea 09/16/2009 01:30 PM)
09/03/2009 Amended Information
09/03/2009 Charge Amended (I18-1501(2) Children-Injury To Child)
09/03/2009 Order to Consolidate W/CRFE2009-0011562
Hearing result for Entry of Plea held on 09/16/2009 01:30 PM: District Court
09/16/2009 Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this hearing estimated: Under 100 Pages
09/16/2009 Hearing Scheduled (Entry of Plea 09/30/2009 01:30 PM) Continued

Hearing result for Entry of Plea held on 09/30/2009 01:30 PM: District Court
09/30/2009 Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this
hearing estimated: Under 100 Pages
09/30/2009 Hearing Scheduled (Entry of Plea 10/14/2009 01:30 PM)
10/14/2009 Continued (Entry of Plea 10/28/2009 02:00 PM)
Hearing result for Entry of Plea held on 10/28/2009 02:00 PM: District Court
10/28/2009 Hearing Held Court Reporter: Dianne Cromwell Number of Transcript Pages for
this hearing estimated: Under 100 Pages
10/28/2009 A Plea is entered for charge: - GT (I18-918(4) {F} Enhancement-Domestic
Battery or Assault when a Child is Present)
10/28/2009 Guilty Plea Advisory
10/28/2009 Hearing Scheduled (Sentencing 12/23/2009 09:00 AM)
11/04/2009 Order For Mental Health Evaluation And Order Allowing Access To Defendant
In Jail
11/04/2009 Order For Domestic Violence Evaluation And Order Allowing Access To
Defendant In Jail
11/04/2009 Order for Pre-Sentence Investigation Report and Mental Health Assessment
12/23/2009 Continued (Sentencing 12/30/2009 09:00 AM)
Hearing result for Sentencing held on 12/30/2009 09:00 AM: District Court
12/30/2009 Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this
hearing estimated: Under 100 Pages
12/30/2009 Dismissed by the Court (I18-923 Strangulation (Attempted))
12/30/2009 Finding of Guilty (I18-918(4) {F} Enhancement-Domestic Battery or Assault
when a Child is Present)
Sentenced to Jail or Detention (I18-918(4) {F} Enhancement-Domestic
12/30/2009 Battery or Assault when a Child is Present) Confinement terms: Penitentiary
determinate: 5 years. Penitentiary indeterminate: 15 years.
12/30/2009 Dismissed by the Court (I37-2732(C)(1) Controlled Substance-Possession of)
12/30/2009 Dismissed by the Court (I37-2732(C)(1) Controlled Substance-Possession of)
12/30/2009 Dismissed by the Court (I18-1501(2) Children-Injury To Child)
12/30/2009 Dismissed by the Court (I18-705 Resisting or Obstructing Officers)
12/30/2009 Sentenced To Pay Fine 5605.50 charge: I18-918(4) {F} Enhancement-
Domestic Battery or Assault when a Child is Present
12/30/2009 No Contact Order: DR#09-3607 Expiration Days: 7305 Expiration Date:
12/30/2029
12/30/2009 Order for DNA Sample
12/31/2009 Judgment Of Conviction & Order Of Commitment
02/04/2010 STATUS CHANGED (batch process)
07/02/2010 Motion to Modify NCO and Notice of Hearing and Order for Transport or
Telephonic Hearing
07/02/2010 Affidavit of Charles Allen Vaughn Jr.
07/08/2010 Order Denying Motion To Modify NCO
03/04/2011 Order Releasing PSI (CV-PC-10-23822)
05/25/2011 Order Re-Imposing Judgment of Conviction and Commitment
06/03/2011 Appealed To The Supreme Court
06/06/2011 CORRECTED Order Re-Imposing Judgment of Conviction and Commitment
06/08/2011 Motion To Release PSI (withdrawn 6/9/11)
06/09/2011 Order Appointing State Appellate Public Defender On Direct Appeal
07/13/2011 (2) Notices of Transcript Lodged - Supreme Ct. Docket #38862
09/14/2011 Motion to Modify No Contact Order
09/14/2011 Motion for Reconsideration of Sentence

09/14/2011 Brief in Support of Defendant's Motion for Reconsideration of Sentence
09/16/2011 State's Opposition to Defendant's Motion to Modify the No Contact Order
09/16/2011 State's Opposition to Defendant's Motion for Correction or Reduction of Sentence ICR 35
09/22/2011 Order Denying Motion to Modify No Contact Order
09/22/2011 Memorandum Decision on Defendant's Motion for Reduction of Sentence
10/07/2011 Appealed To The Supreme Court
10/11/2011 Order Appointing State Appellate Public Defender
11/07/2011 Motion to Modify NCO
11/07/2011 Brief in Support of Motion to Modify NCO
11/21/2011 State's Opposition to Defendant's Motion to Modify the NCO
11/21/2011 Hearing Scheduled (Motion 12/14/2011 03:30 PM) Motion to Modify NCO
11/21/2011 STATUS CHANGED: closed pending clerk action
12/09/2011 Opinion (Affirmed) -- Supreme Ct. Docket #38862
12/13/2011 Order to Transport
Hearing result for Motion scheduled on 12/14/2011 03:30 PM: District Court
12/14/2011 Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this hearing estimated: Under 100 Pages
12/15/2011 Order Denying Motion To Modify No Contact Order
12/20/2011 Remittitur - Supreme Court Docket #38862
12/30/2011 Appealed To The Supreme Court
12/30/2011 Request For Counsel on Appeal
01/06/2012 Request Denied
03/21/2012 Amended No Contact Order
03/22/2012 Notice Of Transcript Lodged - Supreme Court Docket No. 39526
Motion for Order for Production of Documents and Records and Transcripts
04/13/2012 from Prior Appointed Counsel for Case Number CV-PC-1023822 and Case Number CR-FE-09-0014391
06/15/2012 Motion For Withdrawal Of Plea Of Guilty w/Brief In Support
07/03/2012 Order Denying Motion to Withdraw Guilty Plea
07/20/2012 Appealed To The Supreme Court
07/20/2012 Request For Counsel On Appeal
07/24/2012 Order Appointing Appellate Counsel
01/17/2013 Motion to Modify No Contact Order W/ Brief in Support
01/17/2013 Motion to Amend No Contact Order As to the Conditions of Such Order W/ Brief in Support
01/17/2013 Affidavit In Support Of Motion to Modify NCO, Motion to Amend NCO
01/30/2013 Objection to Defendant's Second Motion to Modify the NCO
09/09/2013 Opinion - Supreme Court Docket No. 39525/40237
10/02/2013 Notice to Court
10/03/2013 Order (denying motion to modify NCO)
11/04/2013 Remittitur-Affirmed Supreme Court Docket No. 39526 and 40237
11/08/2013 Motion for the Request for Documents
11/08/2013 Affidavit of Motion for the Request for Documents
11/08/2013 Appealed To The Supreme Court
11/08/2013 NOTICE OF APPEAL
11/08/2013 Motion & Affidavit in Support for Appointment of Counsel
11/08/2013 Motion & Affidavit for Permission to Proceed on Partial Payment of Court Fees
11/15/2013 Order Granting Motion For Counsel on Appeal

APPENDIX C

Case Number Result Page

Ada

2 Cases Found.

State of Idaho vs. Charles Allen Vaughn Jr				
No hearings scheduled				
Case: CR-FE-2009-0021560	Magistrate Judge: John Hawley Jr.	Amount due: \$0.00	Closed	
Charges: Violation Date Charge	Citation	Degree	Disposition	
07/26/2009 I18-2604 {F} Witness-Intimidating a Witness		Felony	Finding: Dismissed By Court	
Officer: NOVACK, MARK, K			Disposition date: 12/03/2009	
			Fines/fees: \$0.00	
07/26/2009 I18-2604 {F} Witness-Intimidating a Witness		Felony	Finding: Dismissed By Court	
Officer: NOVACK, MARK, K			Disposition date: 12/03/2009	
			Fines/fees: \$0.00	
07/26/2009 I18-920 No Contact Order Violation		Misdemeanor	Finding: Dismissed By Court	
Officer: NOVACK, MARK, K			Disposition date: 12/03/2009	
			Fines/fees: \$0.00	
07/26/2009 I18-920 No Contact Order Violation		Misdemeanor	Finding: Dismissed By Court	
Officer: NOVACK, MARK, K			Disposition date: 12/03/2009	
			Fines/fees: \$0.00	

Register
of
actions:

Date

11/18/2009 New Case Filed - Felony
 11/18/2009 Prosecutor assigned Ada County Prosecutor
 11/18/2009 Warrant Issued - Arrest Bond amount: 150000.00 Defendant: Vaughn, Charles Allen
 11/18/2009 Case Sealed
 11/18/2009 STATUS CHANGED: Inactive
 11/19/2009 Hearing Scheduled (Video Arraignment 11/19/2009 01:30 PM)
 11/19/2009 Warrant Returned Defendant: Vaughn, Charles Allen
 11/19/2009 Case Un-sealed
 11/19/2009 STATUS CHANGED: Activate (previously inactive)
 11/19/2009 Booked into Jail on:
 11/19/2009 Hearing result for Video Arraignment held on 11/19/2009 01:30 PM: Arraignment / First Appearance
 11/19/2009 Judge Change: Adminisitrative
 11/19/2009 Order Appointing Public Defender Ada County Public Defender
 11/19/2009 Hearing Scheduled (Preliminary 12/03/2009 08:30 AM)
 11/19/2009 BOND SET: at 150000.00 - (I18-2604 {F} Witness-Intimidating a Witness)

11/19/2009 Order Appointing Public Defender
11/19/2009 Order Appointing Public Defender
11/20/2009 Notification of Penalties for Escape
11/20/2009 Motion For Bond Reduction
11/20/2009 Notice Of Hearing
11/20/2009 Defendant's Request for Discovery
12/03/2009 Hearing result for Preliminary held on 12/03/2009 08:30 AM: Dismissed
by Motion of the Prosecutor with hearing
12/03/2009 Dismissed by the Court (I18-2604 {F} Witness-Intimidating a Witness)
12/03/2009 Dismissed by the Court (I18-2604 {F} Witness-Intimidating a Witness)
12/03/2009 Dismissed by the Court (I18-920 No Contact Order Violation)
12/03/2009 Dismissed by the Court (I18-920 No Contact Order Violation)
12/03/2009 STATUS CHANGED: closed pending clerk action
12/03/2009 Order of Release
12/07/2009 Motion To Dismiss
12/07/2009 STATUS CHANGED (batch process)
